

State of South Dakota

SEVENTY-THIRD SESSION
LEGISLATIVE ASSEMBLY, 1998

400B0817

HOUSE BILL NO. 1316

Introduced by: The Committee on Judiciary at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to drug and alcohol free
2 zones around schools and certain other youth-oriented facilities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 22-42-19 be amended to read as follows:

5 22-42-19. Any person who commits a violation of § 22-42-2, 22-42-3₂ or 22-42-4, or a
6 felony violation of § 22-42-7, if such activity has taken place:

7 (1) In, on or within ~~five hundred~~ one thousand feet of real property comprising a public
8 or private elementary or secondary school or a playground; or

9 (2) In, on or within ~~one~~ five hundred feet of real property comprising a public or private
10 youth center, public swimming pool₂ or video arcade facility;

11 is guilty of a Class 4 felony. Any person who commits a violation of § 35-9-1 within the
12 specified distances from the facilities listed in subdivisions (1) and (2) of this section is guilty of
13 a Class 6 felony. The sentence imposed for a conviction under this section ~~shall carry~~ carries a
14 minimum sentence of imprisonment in the state penitentiary of five years in the case of a Class
15 4 felony and two years in the case of a Class 6 felony. Any sentence imposed under this section
16 shall be consecutive to any other sentence imposed for the principal felony. The court may not

1 place on probation, suspend the execution of the sentence, or suspend the imposition of the
2 sentence of any person convicted of a violation of this section. However, the sentencing court
3 may impose a sentence other than that specified in this section if the court finds that mitigating
4 circumstances exist which require a departure from the mandatory sentence provided for in this
5 section. The court's finding of mitigating circumstances allowed by this section and the factual
6 basis relied upon by the court shall be in writing.

7 It is not a defense to the provisions of this section that the defendant did not know the
8 distance involved. It is not a defense to the provisions of this section that school was not in
9 session.